



Insurance Department

State of Utah

GARY R. HERBERT
Governor
GREG BELL
Lieutenant Governor
NEAL T. GOOCH
Insurance Commissioner

State of Utah Title and Escrow Commission Meeting Meeting Information

Date: **March 12, 2012**

Time: 9:00 AM

Place: East Bldg, **Spruce** Room

MEMBERS

COMMISSION MEMBERS

Chair, Dirk Keyes
 xCo Chair, Cortlund G. Ashton, Salt Lake Cnty
 xKirk Donald Smith, Weber Cnty
 xJerry M. Houghton, Tooele Cnty
 xLarry Turner Blake, Washington, Cnty

DEPARTMENT STAFF

Perri Babalis, AG Counsel
 xSuzette Green-Wright, MC Dir.
 xJilene Whitby, PIO Recorder
 xBrett Barratt, Deputy Comm.
 Brad Tibbitts, P&C Dir.
 Adam Martin, Examiner
 Mark Kleinfield, ALJ
 xTammy Greening, Exam.

PUBLIC

Carol Yamants
 John C. Summer
 Lincoln Scoffield
 Jeff Weber
 James Seaman
 Joseph McPhie

NON APPROVED MINUTES

General Session: (Open to the Public)

- **Welcome / Cort, Co-Chair**
Cort began meeting at 9:05am. Dirk Keyes was excused.
- **Adopt Minutes of Previous Meeting**
Pete asked that the LSI bullet on the first page, \$3,000 should be changed to \$6,000 and Jerry said \$25,000 be changed to \$250,000. Larry made the **motion** to accept the minutes with the changes, Jerry seconded it and the vote was unanimous.
- **Reports**
 - **Concur with Licensee Report / Tammy**
Cort asked if new title agencies were in fiscal compliance. Tammy reported they were. Cort asked if agencies were required to have the word "insurance" in their name. Tammy said it is only required to be in the agent or agency's marketing tool. David said that if the name includes the word "agency" then it also must include "insurance." Kirk made the **motion** to concur, Larry seconded it and the vote was unanimous.
 - **Concur with Complaint & Enforcement Reports / Suzette**
The Closed Investigation Report did not show February activities. The department will include it in the April report. **Motion** by Jerry to accept report as presented, seconded by Larry, and vote was unanimous.
 - **Request for Attorney Exemption:** None
- **Administrative Proceedings Action / ALJ**
 - **Stipulation & Order:**
 - **LSI Title Insurance Agency of Utah, Inc: Update LSI's Decision to Concur or Not with Commission's Forfeiture Amount / Brett**
 - On February 9, 2012, Commissioner Gooch sent a letter to LSI asking if they accepted or rejected the Commission's penalty. LSI responded that they could do neither at the time and asked that the department take no further action until the

Governor's Boards and Commissions and Civil Review Committee responded to the complaint they filed with them.

- On March 9 Commissioner Gooch sent another letter to LSI stating that he considered their position to be one of non-acceptance. Action would not be stayed until their complaint was resolved. Resolution of the case would be assigned to the department's administrative law judge. The case would be investigated and administrative action taken. Previous decisions were not to be considered. Once completed the Order will not be reviewed by the Commissioner.
- Brett said the scope of the investigation would not be limited.
- Larry asked that Commission members be given a copy of the Commissioner's letter. Perri will also need a copy of the Commissioner's letter and LSI's complaint letter. Brett will get her a copy of the Commissioner's letter.
- Brett said the investigation will be to determine if LSI needs to be licensed and if they can use an out of state bank. The AG is not restricted to just those issues.
- **Motion** by Jerry to move to Executive Session, seconded by Larry, vote was unanimous.
- **Executive Session** – (Closed to the Public)
 - Unanimous **motion** to move to General Session.
- **General Session** – (Open to the Public) 9:45am
 - **Informal Adjudicative Proceeding & Order:** None
 - **Formal Adjudicative Proceeding & Pre-Hearing Conf:** None
- **Old Business**
 - **Discuss Definition of Real Estate Escrow Settlements & Real Estate Closings** / Cort
No wording yet.
 - **Discuss “Agency Supervision by Qualifying Owner or Manager Rule”** / Dirk
 - Perri incorporated wording into rule as discussed in last month's meeting.
 - Larry concerned that R592-XX-2(2) does not comply with 31A-23a-204(1)(c). Rule wording would allow people to be out of compliance with the code for up to two years. Rule needs to say that a licensee needs to be in compliance with the code.
 - Tammy said there was an emergency provision in the code that allows a spouse to take a deceased spouse's place for a limited time. Perri suggested removing the second sentence. They agreed.
 - Rule R592-xx-4(2) - Perri suggested “they seek exemption from the commissioner with concurrence of the commission.” All agreed. Perri said common ownership should fit “under certain circumstances.”
 - **Motion** by Larry to amend the rule as discussed and wait until next meeting to make the final decision, seconded by Kirk, vote was unanimous. Perri will make changes.
 - **Discuss Definition of “Minimum Mandatory Search for a Real Estate Transaction”** / Larry
Larry asked if the industry was being hurt by not having a search standard. He found four examples where work was being done but no one was going back to see if there were any issues with plats. People never go back more than 1 or 2 vestings but need to.
 - David – Par 3 needs to clarify that search is done by a person and not is an individual.
 - “Producers” need to be changed to title “licensees” except in Section 2. Suzette suggested switching Severability and Enforcement sections to go along with rulemaking procedure.
 - Larry made a **motion** that Perri make these changes, send them to Commission for review then put into the rulemaking process.
 - **Discuss Unauthorized Insurers and a Bulletin Instructing Producers About the Signing Documents Certifying or Guaranteeing Title and Escrow** / Larry

Larry thought the bulletin should be sent out as a reminder. Cort asked for comments. None offered. **Motion** by Jerry to accept draft and send it to the commissioner for distribution, seconded by Kirk, vote was unanimous.

- **Discuss Rule R592-6(4)(14), Unfair Methods of Competition, Acts & Practices: Issues brought to the attention of the Department / Suzette**

Cort noted that ULTA is discussing this as well. Cort asked for Comments. Joseph McPhie said they would rather not have carve-outs. Cort said that the issue is whether we should change the rule or can we enforce it as is? Larry thought they were headed down the wrong road. Larry made the **motion** to not accept the changes but to stay where they were and enforce the rule as it is, seconded by Jerry and the vote was unanimous. The department was thanked for providing the language to be considered.

- **New Business**

- **Legislative Update / Brett**

- HB 29, Insurance Amendments, the summary is on the [web](#). Changes take effect July 1, 2012. Title changes are as follows:
 - 31A-23a-406 – Farm Credit subsidy change requested by Commission – good funds.
 - 31A-23a-409 – Indicates licensee is trustee for money paid to or received by trustee.
 - 31A-31-108 – Fraud assessment increased slightly to pay for 2 more fraud investigators and one support staff.

- **Other Business**

- **Department Matrix / Jerry**

Jerry asked that this topic be put on April's Executive Session. He is the only one who has seen the matrix. Move Executive Session to end of meeting.

- **Jeff – clarified language on trust account in 31A-23a-409.**

In a case where an agency went bankrupt the judge interpreted funds held by the agency were interplay and they were not held to be received and no longer considered trust funds held for the underwriter or the insured. The language change in 31A-23a-409 passed in HB 29, 1st Sub, clarifies that funds received or not yet received by the underwriter or insured will be considered to be trust funds as intended.

- **Adjourn:** At 10:40am Larry made the motion to adjourn, vote was unanimous.

- **Next Meeting:** April 9, 2012, Spruce Room

2012 Meetings in Spruce Room

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| Jan 9 | Feb 13 | Mar 12 | Apr 9 | May 14 | Jun 11 |
| Jul 9 | Aug 6 | Sept 10 | Oct 15 | Nov 19 | Dec 10 |